IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 30TH OCTOBER 2006 / 8TH KARTHIKA 1928

ST.Rev..No. 166 of 2004()

TA.159/2002 of S.T.A.TRIBUNAL,ADDL.BENCH,KZD.
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: PETITIONER/APPELLANT/ACCSSEE

V.V.HANEEF, "ANUGRAHA'
KOTTOOLI, (EX-PARTNER, M/S.MAX FOOTWEARS
S.M.STREET, CALICUT)

BY ADV. SRI.T.M.SREEDHARAN
SMT.M.S.KIRAN
SRI.DEEPAK JOY.K.
SRI.A.V.MURALEEDHARAN
SMT.M.V.ASHA BINDU

RESPONDENTS: RESPONDENT/REVENUE

STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER – ADV. SHRI. GEORGEKUTTY MATHEW

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 30/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

S.T.Rev. No. 166 of 2004

Dated, this the 30th day of October, 2006

J U D G M E N T

C.N.RAMACHANDRAN NAIR, J.

The question raised is against estimation of turn over and rejection of accounts sustained by the Tribunal. The accounts of the petitioner are found rejected for various reasons. The main ground for rejection is that petitioner showed gross profit @ 4 % on non-taxable goods but on taxable goods petitioner declared a loss of 34%. Since the petitioner could not explain this anomaly and for other reasons Tribunal confirmed rejection of accounts and upheld estimation of turn over by adding 10% towards gross profit. We do not find any question of law arising for our decision from the order of the Tribunal, wherein; the findings are only on facts. However, since the petitioner has closed business and this Court had granted stay against recovery proceedings and since Amnesty benefit was available in 2004 providing waiver of 75% of penal interest payable under Sec. 23(3) of the KGST Act, we feel petitioner also can be granted same benefit provided,

petitioner clears the balance arrears of tax with 25% interest within three weeks from the date of receipt of a copy of the judgment. If petitioner does not clear liability as above, then waiver of 75% interest granted will stand automatically vacated and on default, respondents will be free to proceed for recovery of the balance arrears with full rate of interest.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

(K.M.JOSEPH, JUDGE)

jg